IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 25472 of 2000

Between:

Old Feelkhana Relief Camp Welfare Committee, Rep. by its President Mohd.Rafeeq, S/o. Mohd.Shaik Jamal,
(Regd.No.57/62), R/o. H.No. 15-1-362,
Old Feelkhana, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Police,
Hyderabad.
2 The Deputy Commissioner of Police (Traffic),
Hyderabad.
3 The Assistant Commissioner of Police,
Goshamahal Division, Hyderabad.
4 The Inspector of Police,
Begumbazar Police Station, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the action of the respondents in not erecting the barricades to prevent the entry of lorries into the Old Feelkhana Lane leading from Goshamahal road to Osmangunj as illegal and arbitrary and to consequently direct the respondents herein to erect barricades and stop the movements of the lorries into the area as otherwise the residents of the Old Feelkhana Area, suffer irreparable loss and injury, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.RAVI SHANKAR

Counsel for the Respondents: GP FOR HOME

The Court made the following :

ORDER:

This writ petition is filed by the Old Feelkhana Relief Camp Welfare Committee seeking a writ of Mandamus declaring the action of the respondents in not erecting barricades to prevent the entry of lorries in the Old Feelkhana lane leading from Goshamahal road to Osmangunj, as illegal and arbitrary.

It is the case of the petitioner that though as per the existing instructions, the lorries are not permitted to enter Old Feelkhana area, through out the day the lorries are entering the area and are being parked on the roadside, causing inconvenience to the users of the road and pedestrians.

The fourth respondent filed a counter affidavit. It is stated that having noticed the inconvenience caused due to movement of lorries in the area, the Police have prohibited the entry and only one lane is left over near Mathaka Mandir Goshamahal. It is the case of the respondents that if the lorries are not permitted to enter the Feelkhana area even on Mathaka Mandir Goshamahal lane also, it would cause inconvenience to the Transport Contractors.

Though the counter affidavit is filed on 08.03.2001, no reply affidavit is filed. Therefore, there is every justification for the Police to allow the lorries at least on one lane; as otherwise, the entire community of Transport Contractors might suffer irreparable loss. When the competing rights vie with each in seeking redressal, the Court has to balance having regard to the decision taken by the Executive. In this case, the Police having regard to the nature of the business that is carried on in the area have decided to permit the lorries on Mathaka Mandir Goshamahal lane after erecting girders on all the lanes and by-lanes leading to Old Feelkhana. Whether or not to erect girders even on the road which is left open is a matter, which is left to the judgment of the Police and the same lacks adjudicative disposition warranting interference under Article 226 of the Constitution of India.

The writ petition, with the above observation, is dismissed. No costs.

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(V.V.S.RAO, J)

24.06.2005

vs

To

1 The Commissioner of Police,
Hyderabad.
2 The Deputy Commissioner of Police (Traffic),
Hyderabad.
3 The Assistant Commissioner of Police,
Goshamahal Division, Hyderabad.
4 The Inspector of Police,
Begumbazar Police Station, Hyderabad.

5 2 CCs to the G.P for Home, High Court of A.P., Hyderabad(O.U.T).

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